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1 the tape?

2 A I remember at some point in time having a conversation  
3 about that tape. Whether there was another conversation, I  
4 don't recall.

5 Q When you left that interview, the videotaped interview,  
6 after a few minutes, do you recall being given the  
7 videotape? Even if you don't remember the interview, do  
8 you recall being given the videotape?

9 A No, I don't.

10 Q How do you think the videotape came into your possession?

11 A Again, I'm speculating. What I think is I told you it  
12 wasn't an investigative interview. It was a time when  
13 those two could get acquainted; he could establish her  
14 competency. And at the end of that interview it was given  
15 to me, and it went in a drawer in my desk.

16 When we moved from the Sheriff's office building to  
17 CAIC, I had packed up a bunch of stuff that I wasn't using.  
18 That included -- some of the things I just explained that I  
19 had in those boxes went to CAIC. The boxes were stored  
20 there.

21 When I retired, I took that stuff with me, those  
22 boxes I had in storage, and we lived at the beach. They  
23 went in my garage at the beach. We sold that house, and  
24 all that stuff went into storage for two years until we  
25 bought a home in Arizona, and it ended up in my garage down

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1       there. And because of all kinds of things that were going  
2       on with my life, cleaning my garage was not a priority.  
3       And so finally I just made up my mind I had to go through  
4       that stuff. And, you know, there was other things. I had  
5       boxes of all kinds of garbage out there, you know, that I  
6       needed to go through, so I think that's what happened --

7       Q Prior -- go ahead.

8       A -- with the tape.

9       Q Did you find any other items in your garage that you mailed  
10       back to Dennis Hunter other than the videotape?

11      A No. I don't believe -- I sent him the tape. That was the  
12      only thing I had.

13      Q After you watched the tape, do you agree that the tape  
14      should have been in the Spencer files --

15               MR. BOGDANOVICH: Object. Asked --

16      Q (By Ms. Zellner) -- of the Sheriff's Department?

17               MR. BOGDANOVICH: Object. I think it's been  
18      asked and answered.

19               MS. ZELLNER: I don't think it has. I haven't  
20      asked that question.

21               MR. BOGDANOVICH: Go ahead.

22      A No..

23      Q (By Ms. Zellner) Do you agree that the tape --

24               MS. ZELLNER: I notice she keeps looking at  
25      Counsel, but I wish she would just answer the question.

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1 MR. BOGDANOVICH: I'm sorry. Somebody passed a  
2 note to me that I think may have distracted the witness.  
3 And beyond that, I'd object to your characterization.

4 But go ahead. I want you to remember, Sharon,  
5 even --

6 MS. ZELLNER: She's done that repeatedly in this  
7 deposition --

8 MR. BOGDANOVICH: Even if --

9 MS. ZELLNER: -- but if she'd just answer my  
10 question.

11 MR. BOGDANOVICH: Even if I object, Sharon, you  
12 should go ahead and answer if you can, unless I tell you  
13 not to.

14 THE WITNESS: Okay. That was my concern: If  
15 he's objecting, was I supposed to answer?

16 Okay, the question again, please.

17 MS. ZELLNER: Could the court reporter read the  
18 question back?

19 THE COURT REPORTER: Question: "After you  
20 watched the tape, do you agree that the tape should have  
21 been in the Spencer files of the Sheriff's Department?"

22 A. My answer is no.

23 Q (By Ms. Zellner) Then why did you call Dennis Hunter to  
24 turn the tape in?

25 MR. BOGDANOVICH: Object. Asked and answered.

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1 Go ahead.

2 A That first time when I interviewed it -- or when I viewed  
3 it, I had no idea what it was. In retrospect and thinking  
4 about that, and I've thought about it a lot, like other  
5 things in this case, I don't think it was evidence at all.  
6 I think it was a casual thing and why -- it wasn't my idea  
7 to tape it, I don't believe. And for whatever reason, if  
8 it had been for evidence, it would have been placed into  
9 evidence. And that's how I think it ended up in my desk.

10 MS. ZELLNER: Okay. I want to stop right now  
11 and take a break. Our food is here so we'll come back to  
12 those.

13 MR. BOGDANOVICH: How long do you want to break,  
14 Counsel?

15 MS. ZELLNER: Twenty minutes.

16 MR. BOGDANOVICH: Twenty?

17 MS. ZELLNER: Yes.

18 (Recessed at 12:22 p.m.)

19 (Reconvened at 12:54 p.m.)

20 Q (By Ms. Zellner) When did you retire from the Sheriff's  
21 Department? What was the year and date?

22 A I think it was October 5, 1995.

23 Q And where was your office located in the Sheriff's  
24 Department?

25 A It was located in the Investigative Unit, and that was on

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1 how was that done? What did the tags look like?

2 A You know, it's been so long ago, I don't remember it having  
3 a number. I remember it had a case number. The case  
4 number, for instance, if it was a homicide and we had 50  
5 pieces of evidence, it would be -- each one would be  
6 numbered one, and the case number two, and case number  
7 whatever. But it's been a long time. I don't remember  
8 what the tag looked like.

9 Q Okay. And then with the Spencer case, was there a log,  
10 written log, that would identify each piece of evidence?

11 A I don't recall there being any physical evidence in terms  
12 of tangible things.

13 Q Okay. Were your -- was there something similar to the  
14 indexes you made that tracked the evidence, or was the  
15 index the system for tracking evidence?

16 A No. If there was evidence, it would have been noted in --  
17 it would have been in the -- that report would be in the  
18 case file. And there would -- you know, if I did it, if I  
19 secured the evidence, I would make a little Utility Report  
20 indicating that we had collected this evidence and that it  
21 was secured or whatever happened to it. But it would be --  
22 Utility Report, Evidence Reports, would be in the file.

23 Q Okay. So in the reports that we have, like the reports  
24 that we have given you for today's deposition, I didn't see  
25 any logs in there of evidence. I see Utility Reports. Why

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1 A Yeah. I don't recall seeing him writing.

2 Q Now, you said that your office was a cubicle and that this  
3 videotape was packed up when you retired and gathered your  
4 materials from your office. Is that what you're saying,  
5 you packed up your office and you packed up the tape?

6 A When -- initially we were located in the Sheriff's office,  
7 in the main building.

8 Q Right.

9 A And there was some stuff there that, odds and ends, when we  
10 moved to the Child Abuse Intervention Center, which was a  
11 complete separate building, I put all that stuff in boxes.  
12 And I had a couple drawers in my desk, and so I put that in  
13 a box, and when we went to CAIC, it was stored there. It  
14 wasn't things that I was using.

15 And then when I retired, I took those boxes, along  
16 with some other stuff I'd managed to accumulate, put that  
17 in boxes and went to the house at the beach, and those  
18 boxes went in the garage. My husband, late husband, and I  
19 sold that house, and we were going to look for a house in  
20 Arizona, so all of our furniture, including those boxes,  
21 were stored for two years, and then when we bought a house  
22 in Arizona, we had everything moved down there. Those same  
23 boxes ended up in my garage again. Because there was so  
24 much going on in my life, that just wasn't a priority.

25 Q And how many boxes do you think that you packed up when you

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1 actually retired? You retired -- your office, when you  
2 retired, was at the Child Abuse Center?

3 A Yes.

4 Q Is that right?

5 A Yes.

6 Q Do you know approximately how many boxes you moved from the  
7 Child Abuse Center to your house?

8 A When I was retiring, I had probably three or four boxes  
9 full of books that I'd collected at seminars and training,  
10 and I donated those to the Y and to CPS. So I got rid of  
11 those. But I had all my training stuff, and I had a ton of  
12 pictures little people had colored and drew for me when  
13 they were in my office and some cards and those kind of  
14 things. And I finally, when it got -- I moved them to the  
15 beach. When I got down there, I burned a lot of that  
16 stuff. But the training materials --

17 Q Oh -- oh, go ahead. Go ahead.

18 A I'm sorry. The training materials and my certificates and  
19 stuff were in a separate box, and, you know, I didn't have  
20 a chance to go through those.

21 Q And the box that you had, was it labeled --

22 A No.

23 Q -- at all, the box where this videotape was?

24 A No. It was just a box like, like you might see in an  
25 office, I think. I originally got it at the Sheriff's

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1 office and had, you know, for just documents. And I had  
2 white tape all over it. It was getting so old it was  
3 peeling up, clear tape, but it was just a box.

4 Q Okay. So there was no label on it?

5 A No, no.

6 Q Okay. And the box came from the Sheriff's Department,  
7 right? One of their boxes?

8 A No, I don't think so. I was just telling you that's the  
9 kind of box it was, that you might put folders or something  
10 in, and I have no idea where I acquired it.

11 Q Was it a banker box? Do you know?

12 A I don't know what a banker box is. It's a cardboard box  
13 with a lid.

14 Q Like right here on my table.

15 A No.

16 Q It says Banker Box on it. Was it something like that?

17 A No. It was like a cardboard box, this big, with a lid  
18 that's attached and then had handles, and you could pick it  
19 up by the handles or had openings for your hands.

20 Q The videotape was in with seminar material. Did you ever  
21 use this video at any of your seminars?

22 A Never.

23 Q Did you ever use any of the material in the box at any of  
24 your seminars?

25 A When I was doing training, I had the materials I used for



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1 training. They weren't stored in the box. Those were -- I  
2 kept that stuff at my home. Stuff that was in there was  
3 stuff I had accumulated over time, a lot of it, and  
4 certificates, you know, and other things I just collected.  
5 But when I --

6 Q Okay.

7 A -- moved -- excuse me. I'm sorry.

8 Q Go ahead. You said when you moved?

9 A When I retired, I didn't do any more training after that.  
10 Those things were also stuffed in a box that ended up with  
11 the rest of them.

12 Q When did you -- was there a period of time where you did  
13 seminars or training with Mr. Peters?

14 A Yes.

15 Q And can you tell me over what time period you and he did  
16 seminars or training?

17 A I'd have to refer to my training materials, but he and I  
18 did training together over several-year period of time.

19 Q And did you do training together after the Spencer case,  
20 and seminars?

21 A I think we did, yes.

22 Q Okay. In the training or seminars, was the Spencer case  
23 ever discussed?

24 A I don't recall that.

25 Q So does that mean it was and you don't remember or it was

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1 not?

2 A I don't remember ever discussing at the seminar. That's  
3 all I can say.

4 Q So you may have, but you don't remember it?

5 A I don't think I ever did, but I don't remember.

6 Q Did -- were any of the materials on the Spencer case from  
7 anything, police reports, anything used at any of your  
8 training sessions or any of the seminars?

9 A Now, can you ask me that again? Was anything?

10 Q Yeah, any -- was there anything related to the Spencer  
11 case, whether it would be the report, anything that was  
12 ever used by you or Mr. Peters in a training session or  
13 seminar?

14 A I don't recall. I would -- I don't know.

15 Q So there may -- you may have have, in fact, used things  
16 from the case in a seminar or training session and you just  
17 don't remember?

18 A I would just have to say I don't remember. I suppose  
19 anything is possible, but I don't remember.

20 Q So you think you probably did not use anything?

21 A I just don't remember. You know, there were times when I  
22 was doing training when, to make a point, I referred to  
23 investigations I've done or interviews I've done.

24 Q Did you ever -- did you ever use any of the reports that  
25 you made about the interviews of the Spencer children in

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1 any of your training sessions?

2 A The reports themselves?

3 Q The reports or information from the reports.

4 A There could have -- you know, it's not beyond the realm of  
5 possibilities I discussed some issue in that investigation.

6 I certainly wouldn't have been passing reports out. Again,  
7 to make a point, I may have discussed a specific case, but,  
8 you know, that would be the only reason I would have done  
9 that.

10 Q Okay. How many training sessions or seminars did you  
11 conduct with Mr. Peters during your career?

12 A I don't know. It's in the information we provided you  
13 with, and I'd have to count them to, you know, give you an  
14 accurate count.

15 Q Can you give me some estimate? Was it more than ten, more  
16 than 20, more than 30?

17 A More than 10, more than 20, I'm sure.

18 Q Okay. More than 50?

19 A I don't know.

20 Q Okay. Over what years were you giving seminars or doing  
21 training sessions? Can you give me the span of years?  
22 1984 to 2000? What were the years?

23 A I think I started doing training locally -- I worked three  
24 years on Patrol, and I went into Detectives and wasn't in  
25 there very long when I was doing community stuff, so I

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1 would have to say from -- I retired or hired on in 1975, so  
2 from maybe '79 until I retired in 1995.

3 Q And in the training or seminars you did with Mr. Peters,  
4 were you paid for those?

5 A Some of them.

6 Q Do you know in the training or seminars that you did with  
7 him what percentage of your income each year came from fees  
8 from training or seminars?

9 A Very little. There were times when --

10 Q Do you know --

11 A I'm sorry.

12 Q Do you know what was the highest percentage --

13 A No.

14 Q -- of income that you ever got in a year?

15 A No.

16 Q Ten percent, 20? You have no idea?

17 A And I don't even think it would be 10 percent.

18 Q I'm sorry. What?

19 A I don't think it would be even 10 percent of my income.

20 Q Okay. After the Spencer case, did you participate in  
21 seminars with Mr. Peters?

22 A '84, '85? I'm sure I did.

23 Q Okay. Did you -- were you ever in a seminar where

24 Mr. Peters was discussing the Spencer case?

25 A I don't remember that.

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1 realized was what was on it.

2 Q And that actual -- the videotape with the writing on it was  
3 sent back to the prosecutor? That's what you're telling  
4 us, you mailed it to him?

5 A That's correct. Prosecutor's office.

6 Q You have not seen it again? You have not seen the tape  
7 again?

8 A I haven't seen that tape that I sent.

9 Q But -- okay. You did you did see copies of the tape,  
10 correct?

11 A The CD I told you about earlier.

12 Q Who supervised who provided you with the copy of the  
13 videotape?

14 A I think it was Bronson Potter with the prosecutor's office  
15 when they sent some things down to me.

16 Q When you viewed the video for the first time, was one of  
17 the reasons that you called the prosecutor was because you  
18 thought it was helpful to the prosecution, the tape?

19 A I don't think it was that so much as what I told you  
20 earlier. I didn't know why I had the thing, where it came  
21 from, when it was done, why it was done.

22 In the second portion, she's clearly acting out with  
23 those dolls or showing things, and I just thought somebody  
24 else needs to have this thing besides me, and because of  
25 the information I was getting about Ray Spencer, I called

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1 specifically what it said.

2 Q (By Ms. Zellner) Let's go back to your interview with  
3 Kathryn Spencer on Exhibit 11. I'm sure you've had time to  
4 look through Exhibit 11. Have you -- does this exhibit,  
5 these documents that you drafted, do they reflect  
6 everything that Kathryn Spencer said to you in the  
7 interview that you thought was significant?

8 A When I took notes and I was with a child, I tried to  
9 document everything, not just the things that were --  
10 directly involved the issue we were talking about, so I  
11 would say that it should reflect my conversation with her  
12 on that day.

13 Q Okay. And I notice that you have quoted her a lot in this  
14 interview. Do you believe that your quotes are accurate?

15 A As accurate as I could have them, yes.

16 Q Is there a reason that you didn't just use a tape recorder  
17 in this interview?

18 A Yes.

19 Q And why is that?

20 A I tried -- I made one taped interview in my whole career,  
21 and that was a four-year-old child who witnessed her mother  
22 and her auntie, her father stabbing both of them multiple  
23 times, 50, 60 times. But I tried one time prior to that to  
24 tape-record a child and found myself running around the  
25 room chasing them with the tape recorder, having to repeat

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1 what they said, the child screaming into the tape recorder,  
2 and I learned early on it just wasn't going to work. And  
3 if there's down time and they wanted time they didn't want  
4 to be talking, then I'm trying to explain it. The tape  
5 just did not work, so I didn't use it.

6 Q Okay. Could you show me in this interview where you had  
7 established the competency of Katie Spencer?

8 A I think I started establishing her competency the first  
9 time I met her. Is she verbal? She was a very articulate  
10 child. She had an excellent vocabulary for her age.  
11 Sometimes I thought children were more perceptive than  
12 adults, and she was very perceptive.

13 Q I'm asking you -- you know, I understand how you establish  
14 competency. Can you show me in the interview? Let's be  
15 specific where in the interview did you establish that she  
16 knew the difference between telling the truth and a lie?

17 MR. BOGDANOVICH: I'm going to object to the  
18 form of the question and to your interrupting the answer in  
19 providing her answer. I think she was providing a  
20 responsive answer.

21 So, Sharon, I'd encouraged you to continue with the  
22 answer you were giving, and then once that's done, if  
23 Counsel wants to follow up, that's fine.

24 MS. ZELLNER: I'd like to have it be specific to  
25 the report, as you pointed out earlier. I think that she

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1 the date?

2 A It's a Utility Report prepared by -- it was a report that I  
3 dictated, it was prepared for me. 10/18/84, and it's an  
4 interview with Linda Lawrence, Sacramento.

5 Q And had all of those reports up to that point in time, had  
6 they all been sent piecemeal over to the prosecutor?

7 A I can't say if they went over piecemeal or one or two or  
8 three or more could have gone at the same time if they were  
9 all -- if I dictated them all at once and they were  
10 completed the same time.

11 Q Okay. Exhibit 16, can you identify that for the record?

12 A 10/18/84, a witness interview with DeAnne Sue Spencer.

13 Q And is this a complete and accurate report of your  
14 interview with DeAnne Spencer?

15 A On that date? Yes. Should be.

16 Q And am I correct that everything of importance in the  
17 interview would be included in your written report?

18 A It should be, yes. When I talked to someone, I always took  
19 notes, and that's what I dictated from my notes.

20 Q Okay. Let's go to Exhibit -- would you identify 17.

21 A A Utility Report.

22 Q Right.

23 A Dictated and prepared for me on 10/18/84, an interview with  
24 victim. It was an interview with Kathryn Spencer.

25 Q And, again, this accurately quotes Kathryn Spencer --



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1 misdemeanor portion of the question that I believe is  
2 inaccurate.

3 Q (By Ms. Zellner) Was Ray Spencer ever charged with a  
4 misdemeanor?

5 A Are you asking me?

6 Q Yes, I am.

7 A I don't remember him ever being charged with a misdemeanor.

8 Q Wasn't he released on his own personal recognizance?

9 A He was, but I don't recall that being a misdemeanor. It  
10 was the sexual contacts he had with his daughter, and he  
11 appeared -- but he wasn't actually arrested by us.

12 Q Who arrested him?

13 A I don't remember. I'd have to look through here, but I  
14 don't remember him being physically arrested, not until  
15 this second portion of that.

16 Q Okay. So if our records indicate that he was arrested for  
17 a misdemeanor in January, that is inconsistent with your  
18 recollection?

19 A I don't recall him being arrested for a misdemeanor.

20 Q Okay. Did you have -- were you involved in his arrest in  
21 February of 1985?

22 A I think he voluntarily appeared.

23 Q Okay. Well, let's look back at the record itself, at  
24 page 2 of 8.

25 A Two?

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1 Q On 2/28/85, did Ray Spencer get arrested concerning the  
2 incident at the Salmon Creek Motel?

3 A Am I to see that in this report?

4 Q Do you have a recollection of why he was arrested on  
5 February 28 of '85?

6 A I don't remember there being arrest at the motel.

7 Q Was he arrested because of a sexual allegations made  
8 against him by Matt Hansen of things that had occurred at  
9 the motel?

10 A Oh, that the incident occurred at the motel --

11 Q Right.

12 A -- not the arrest.

13 Q Can you tell me, was Shirley Spencer coming into the  
14 Sheriff's Department on a daily basis from when you first  
15 met her, September 21 of 1984, up until Ray Spencer's  
16 arrest in February?

17 A No, I wouldn't say it was on a daily basis. It may have  
18 seemed like a daily basis to her. There were times when  
19 she was in there, certainly, with Little Matt, but it  
20 wasn't a daily basis.

21 Q Do you have any idea how many times she was at the  
22 Sheriff's Department over that time period?

23 A Only the times that would be documented in the reports.

24 Q But if her recollection -- well, that would be if she was  
25 providing information about the case, right, that it would

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1 be documented?

2 A Yes.

3 Q Every time she came in, there wasn't a report made, was  
4 there?

5 A I don't recall her being there if it wasn't for me to  
6 interview her or Little Matt.

7 Q Right. But she recalls being there frequently, so  
8 apparently it wasn't in relationship to you interviewing  
9 her if she was there frequently?

10 A I don't --

11 MR. BOGDANOVICH: Object to the form of the  
12 question. That calls for speculation from this witness.

13 MR. FREIMUND: I also object to the preamble,  
14 but you can answer.

15 A I don't recall her being in there unless she had business  
16 with -- and most of the time it was me or interviewing Matt  
17 or interviewing her. As far as her in and out for no  
18 reason at all, I don't remember that at all. And as small  
19 as our unit was, if she was in there, I'm certain that I  
20 would have known it.

21 Q (By Ms. Zellner) But, again, when you were interviewing  
22 her, you made a report of that, correct?

23 A Yes.

24 Q After Ray Spencer was arrested, did you ever make a phone  
25 call -- did you ever make a phone call to a Lois Clark

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1 A I know that I've read it. I don't remember the content.

2 Q Okay. Let me just check a couple more of these. On  
3 Exhibit 34, you gave testimony on May 22, 1996; is that  
4 correct?

5 A Yes.

6 Q Okay. And have you had an opportunity to review this  
7 testimony recently?

8 A It hasn't been that long ago that I read it, along with  
9 10,000 other things. I don't remember every word of it.

10 Q And you stand by the truthfulness of this testimony that  
11 was given on May 22?

12 A If it's my testimony, I would have testified to what I  
13 thought was true.

14 Q Okay. Just a few more questions.

15 So I want to go back on the videotape because you  
16 said the first time you viewed it was in 2009. That's  
17 correct, right?

18 A It was when I -- the day that I sent it, right.

19 Q Okay, it's when you found it.

20 In 1984, though, when you packed it into the box, you  
21 don't know what was on the video apparently; is that right?

22 A I would have to have known that it was a contact between  
23 Jim Peters, Katie Spencer and -- or Kathryn Spencer and her  
24 mom, but as far as the details of it, I wouldn't have  
25 known. I didn't watch it. And like I explained to you

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1 earlier, as far as I was concerned, I'm certain that there  
2 was -- it wasn't an investigative interview, and had it  
3 been, I would have been in that room.

4 Q Okay. When you say it wasn't an investigative interview,  
5 you don't determine that, though, until later, right, when  
6 you find it, because you don't even know what's on the  
7 tape? You don't know whether it's an investigative  
8 interview, do you?

9 A What I'm --

10 Q Would you say you don't have any memory of it?

11 A No. But what I'm telling you, had it been an investigative  
12 interview -- at the time I obviously knew what was going  
13 on, I was in the room -- and had the purpose been for  
14 investigation or to use that as an investigative interview,  
15 I would have stayed in that room. And not only that, when  
16 it was done, I would have secured it and put it into  
17 evidence. There's no way I would have ended up with that  
18 tape.

19 Q If it wasn't, though, an investigative interview, why would  
20 it need to be videotaped? Why was it videotaped if it  
21 wasn't -- if it had no investigative significance?

22 A Maybe Jim Peters can answer that better than I. I -- you  
23 know, because I don't remember it, I don't remember what  
24 the purpose of the interview or the taping was.

25 Q Right. But you said you left in -- I think you're exactly

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1 accurate -- you left within just a couple minutes of the  
2 interview starting, so you wouldn't have known that the  
3 balance of the interview was not an investigative interview  
4 at that time, would you, because you left?

5 A I left --

6 MR. BOGDANOVICH: I'm going to object to the  
7 form of the question.

8 Go ahead.

9 A I left because I -- I think because the purpose of that  
10 interview didn't have anything to do with me. And, again,  
11 knowing Jim Peters and as thorough and as meticulous as he  
12 was as an attorney, if that would have been a tape used for  
13 legal issues, he would have made me stay in there. I mean,  
14 he wouldn't have done it without me there, so I -- that's  
15 another thing. You know, I've thought about that goofy  
16 tape a lot. And that's the only explanation I could come  
17 up with. I don't think that was the purpose of the tape,  
18 although --

19 Q You decide that many years later --

20 A Exactly.

21 Q -- but at the time you left the interview, so you wouldn't  
22 have known in 1984 what the purpose of the interview was?

23 MR. BOGDANOVICH: Object to the form of the  
24 question.

25 Q (By Ms. Zellner) I mean, wouldn't you agree? You didn't

ZELLNER (Sharon Krause, 11/6/12)

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1 have any knowledge about the rest of the tape. It lasts  
2 for 66 minutes, I think --

3 A Right.

4 Q -- and you leave after a few minutes. So you wouldn't know  
5 what the purpose was unless you actually did view the tape?

6 A No.

7 MR. BOGDANOVICH: Object to the form.

8 MR. FREIMUND: I join. That's argumentative.

9 Go ahead.

10 A The purpose --

11 MS. ZELLNER: I was just trying to make sense of  
12 her answer.

13 A It's -- all I'm trying to tell you is that if there's  
14 another purpose for the tape, I don't know what it is. I  
15 can only assure you that based on what I've seen of that  
16 tape, I don't believe for one second it was an  
17 investigative interview or a clinic or investigative  
18 interview.

19 Q Right. But you would defer to the courts that have  
20 reviewed the tape, wouldn't you, about whether it had  
21 evidentiary significance?

22 MR. BOGDANOVICH: Object to the form of the  
23 question.

24 MR. FREIMUND: Join.

25 MS. FETTERLY: Join.

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1 tape.

2 Q Okay. But --

3 A So.

4 Q -- you understand --

5 A If I'm not remembering --

6 Q -- when someone is saying that they don't have memory, that

7 there's a relevant question. Are you telling us that you

8 may have looked at it and don't remember it, or are you

9 telling us you did not look at it, or are you just saying

10 "I don't know if I looked at it or didn't look at it."

11 A I don't know if I looked at it or didn't look at it. What

12 I'm saying is I have no memory of it and --

13 Q Right, I accept that. You have no memory of it. But you

14 don't know if you looked at it before you discovered it in

15 your garage?

16 A No, and it wouldn't have been -- it would -- if I had have

17 seen it, it had to have been that day, and I can't imagine

18 for me sitting for 60 minutes and watching the tape when I

19 was buried in other things to do.

20 Q Yeah. Regardless of that, though, you've just stated that

21 you can't remember if you looked at it before you

22 discovered it in your garage. Right?

23 A Right. I can't say I didn't immediately look at it, but I

24 have no memory of it. So I doubt if I did.

25 Q Okay. I think that's fair.





CLACK COUNTY SHERIFF'S OFFICE, WASHINGTON  
UTILITY REPORTCASE 1104-9506  
SUPPLEMENTAL RPT

FIRST DEGREE STATUTORY RAPE, RCW 9A.04.070

LOCATION OF INCIDENT: 17681 NE Lucia Falls Road, Yacolt, Wa.

DATE OF INCIDENT: Between 07-14-04 and 08-26-04

DATE &amp; TIME: 10-16-04 1750 hours

LOCATION: Holiday Inn, Room 1135  
5321 Date Avenue  
Sacramento, California 95841-2597

INCIDENT: Interview with Victim

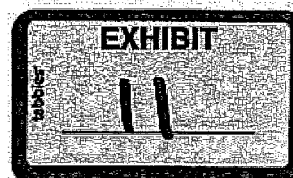
3  
VICTIM: SPENCER, Kathryn E. dob: 01-13-79  
aka: Kathy  
aka: Katie  
3930 Recerra Way  
Sacramento, California phone: (916) 482-6057SUSPECT: SPENCER, Clyde Ray dob: 01-09-48  
aka: Ray SPENCER  
17681 NE Lucia Falls Road  
Yacolt, Washington phone: 687-1407  
Work phone: (206) 696-8292

## SUMMARY:

On the afternoon of 10-16-04, Katie accompanied me to the Sunrise Mall located in Sacramento so that I could purchase a coat for myself as I had not taken one, assuming the weather in Sacramento would not

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Spencer000057

necessitate my needing one. I met with Katie briefly the evening before and felt that the shopping trip would give us time to get acquainted because I wanted to conduct the interview with Katie at a location where she and I could be in private. Deanna SPENCER is employed and at the present time her step-sister, Patty OWENS, baby sits for the SPENCER children. OWENS also brings her five year old daughter to Deanna SPENCER'S residence, and I did not feel that Katie and I would have any privacy at that location.

While we were at the mall, and at a time when Katie and I were resting, I indicated to her that I lived in Vancouver, Washington. Katie immediately stated, "I've been there to visit my dad." I asked Katie if she could guess what my job was and after she made several guesses I told her that I was a policeman. At that time Katie told me that "her daddy was a policeman, too" and she asked me if I knew him. I told her that I did know him and had talked with him and Shirley. At that time I advised Katie that was the reason I had come to California, so that I could talk to her. I indicated to Katie that when I talked with Shirley in Vancouver, Shirley told me that Katie had shared some things with her in private and that's what I wanted to talk to Katie about. Katie stated, "You mean about my daddy?" I answered, "Yes," and Katie stated, "I don't want to talk about that anymore." I indicated to Katie that it was very important that she talk with me and that I needed to talk to her. Katie stated, "You can talk but I don't want to." I advised her that would be okay and we finished the shopping.

When we were done shopping I advised Katie that I was thirsty and we both sat in the middle of the mall and drank a cold drink. I wanted an opportunity to suggest to Katie that we go to the motel where we could talk in private. While we were drinking our pop, I asked Katie if it would be all right if we went back to where I was staying so that we could talk privately with no one else around. Katie stated, "About what I told Shirley?" I advised her that was what I wanted to talk to her about. At that time she appeared to be embarrassed, her face flushed and she stated, "I'd listen to you there but I just don't want to talk about that anymore. Could you just talk to Shirley cause she could tell you?" I indicated to Katie that Shirley did tell me some things but it was important that I talk to her (Katie). Katie indicated



9  
 (that she wanted to go to my motel where I was staying and she "would think about it but it would be okay if I wanted to talk about it to her."

At no time during the time we were en route to my motel or after we had arrived did Katie ever appear to be uncomfortable with being along with me nor did she express any reluctance whatsoever.

When we first arrived at the hotel, Katie indicated she wanted to see the rest of the building and we walked through the lobby, restaurant/coffee shop and pool area. When we were in the area of the coffee shop Katie indicated that she was cold from being out in the rain and wind and she "wished she had a cup of hot chocolate." Katie and I stayed in the coffee shop long enough for her to drink a cup of hot chocolate and I drank a cup of coffee. After we finished our drinks we returned to my room where Katie immediately upon entering the room turned on the TV and removed her shoes.

37  
 While Katie and I were at the mall, I wrote in a small notebook reference questions I asked Katie and statements she made to me relevant to the sexual issue. When she asked me why I was writing I indicated to her that it was hard for me to remember things sometimes if I didn't write them down. Katie appeared to be comfortable with my writing during the entire time I was with her.

Shortly after we got back to my room, Katie lay on the bed facing the TV and then told me to "go ahead and set down if you'd like." (At that time she patted the bed with her hand beside where she was lying. Katie then stated, "You can talk about it if you want to, but I don't like to talk about that." Katie also reminded me to "get something to write on while we talk." At that time I asked Katie what it was that she didn't want to talk about and she stated, "I don't want to talk about my dad and I don't want to talk about my step-mother." I indicated to Katie again that it was very important that I talk with her because of things Shirley had said to me. Katie stated, "I like my step-mother. She is a really nice person." Katie then stated to me, "Did you still want to talk about my step-mother, Shirley?" I advised her that I did. At that time she stated to me, "Well, I can talk a little bit about it but I don't want to." I assured her that it was okay to talk about "it" and indicated to her that she was not in any trouble. It was just very, very important that she tell me the truth while we were talking. Katie stated,

My mother always tells us it's best to tell the truth." I asked her what happens if someone tells a lie and Katie stated, "They get into trouble, I guess." I asked her if she ever told a lie and Katie stated, "Yes, and that's when I get into trouble." I advised her again that it was important for her to tell me just what was true when we were talking, and Katie assured me that she would.

At that time I asked Katie if she could tell me what happened and Katie stated, "I had to tell my step-mother, Shirley, because she had to know, huh?" I asked her how she felt about Shirley and Katie stated, "Oh, she's really nice and I really like her and she has pretty blonde hair." Katie then stated, "Blonde hair is my favorite color." Katie then asked me if I thought Shirley was nice and I advised her that I did. She then stated, "Do you think my daddy is nice, too?" I advised her that I thought he was nice, also. Katie stated, "That wasn't nice what he did, though." I asked her if she could tell me about that and she stated, "I don't know yet but I did something that wasn't nice, too." I asked her if she could tell me about that and indicated that she was not in any trouble and told her that it was just important to tell me about what happened. Katie stated, "Sometimes it's hard to tell the truth, but I know I have to because that's what my mom always tells me and Matt to do. She tells us just to tell the truth because that's best." I indicated to her that I also thought it was always best to tell the truth, and in this case it was very, very important.

I stated to Katie, "Can you tell me where you were when it happened?" Katie replied, "Up at my dad's." I asked her where her daddy lived and she stated, "My dad and my step-mother, Shirley, and her son, little Matt, live in a house by the river." I indicated to Katie that I was glad she was going to talk to me because Shirley might not have remembered something that was important for me to know. Katie stated, "I don't care if I talk to girls about this but I don't want to discuss this with any boys, because they'd just probably laugh." I asked her if she talked to Detective FLOOD about this and she stated, "I'm afraid not. He's a man, remember, and I don't wanta talk to men or boys about this."

Katie then asked me, "Did Shirley tell you what I did to her?" I advised her that I was not sure and asked her if she could tell me

so I would know for sure. Katie stated, "I know it wasn't nice for me to do it but I don't know why I did it, and it happened." I asked Katie if she could tell me sort of what it was about and she stated, "I rubbed her where I should not have." At that time I also noticed that Katie appeared to be embarrassed with her face flushing again and she pushed her face down into the pillow she was lying on. I asked Katie if what had happened with Shirley had anything to do with Shirley's body and with her face still buried in the pillow Katie nodded her head yes.

I indicated to Katie that she did not have to be embarrassed because we were both girls and that it was okay to talk about bodies if you had to. At that time I indicated to her that because we were going to be talking about parts of the body it was important for me to know what she called things so she would know what I was talking about and I would know what she was talking about. With the aid of the attached cartoon drawing, Katie indicated she called the navel a "belly button," the breasts on a female body "boobies," the buttocks a "butt," the genital area of a female body a "pee-pee," and the penis on a male body a "wiener." After Katie had identified the body parts I asked her to point to the parts as I repeated the terminology she had used. The red markings on the cartoon drawing were done by Katie. When she pointed to the specific area I mentioned she would scribble on that area of the cartoon drawing. Katie also colored the eyes, mouth, hands and arms with the red pen.

After Katie and I discussed the cartoon I stated, "Do you remember we were talking about Shirley. Could you tell me about that?" Katie nodded her head yes. I asked her where she was when that happened and she stated, "Up at my dad's." I asked her how old she was when that happened and she stated, "I was five. My birthday is January 13th." I asked Katie where she was at her dad's when that happened and Katie stated, "At the house by the river." I asked her if she was in the yard or where, and Katie stated, "It was when we were sleeping in the living room." I asked her who was there and Katie stated, "Little Matt and Big Matt, but they were asleep." I asked her who else was there and she stated, "Just me and my step-mother cause my dad was at work." Katie then stated, "We slept on the floor and that's why we were in the living room." I asked Katie if she could remember what Shirley had on and



Katie replied, "She had on her robe." I asked her if she could remember what she was wearing and Katie stated, "I was just wearin' my jammies."

I asked Katie if she could tell me what happened then and again Katie stated, "Sharon, I don't like talking about it." At that time, Katie buried her face in the pillow again and was shaking her head back and forth in the pillow. I indicated to Katie that I had brought dolls with me that had private parts like "pee-pee" and "boobies" on them and asked Katie if I got the dolls if she would be able to show me what happened. Katie immediately raised her face off of the pillow and indicated that she would get the dolls. I indicated to Katie that the dolls were in a sack in my suitcase and she brought them to where I was sitting. The first doll Katie took out of the sack was the anatomically correct child female doll. I asked Katie if she could tell me whether that was a boy or a girl doll and she immediately stated, "Well, this is a little girl." When I asked her how she knew it was a little girl she pointed to the area where the breasts would be and stated, "She has little boobs." Katie then pointed to the genital area of the doll and stated, "When girls and boys get big they get hair here and children like me don't have hair yet." I told Katie to take out another doll and at that time she took out the adult female doll. I asked Katie if that doll was a boy or a girl and Katie stated, "This is a lady because she has big boobs and hair." Katie then brought out the anatomically correct male doll and I asked her if that doll was a boy or girl. Katie stated, "This is a daddy doll because it has a wiener and hair." Katie then asked me if the black markings on the chest of the doll were also hair, and I advised her that they were.

At that time Katie laid the adult male doll down on the bed and picked up the female adult doll. Katie pointed to the pink area where the nipple on a breast would be and stated, "My step-mother told me strawberry stuff is there." I asked her if she could explain that to me and she stated, "I don't know how to explain it. She just told me that was strawberry stuff there."

I picked up the male doll and at that time pointed to the penis on the male doll and asked Katie, "Now, what do you call this?" Katie stated, "It's the same as this (pointing to the line drawn down between the legs of the cartoon drawing where a penis would be on a male body), wiener." At

that time I stated to Katie, "Boy's wieners hang down like this (with the penis laying against the body of the doll)." Katie stated to me, "No, sometimes they stick up like my dad's sticks up and gets hard sometimes." At that time I pretended to be surprised and stated, "Oh, could you show me with the doll how that happens, Katie?" Katie took the male doll from me and at that time I observed her lift the penis up on the male doll so it was extending out and slightly upward and Katie stated to me, "And it grows, too." I asked Katie how she knew that and she stated, "Because I saw it." I asked her where she was when she saw that and she stated, "At the house by the river." I asked her who was there when she saw that and Katie stated, "Just me and my daddy." I asked Katie what her daddy had on and Katie whispered, "Nothing."

Katie then stated, "Let's talk about my step-mom, Shirley." I asked Katie if we could talk about her daddy later and Katie looked at me and shook her head in a no response, then buried her face in the pillow again. I indicated to Katie that was okay, that we could talk about Shirley and she could think about whether she wanted to talk to me about her daddy while we were doing that.

Katie lifted her head and at that time instructed me to get the other pillow behind me because "we needed a bed." I handed Katie the second pillow and at that time she laid the anatomically correct male doll on the pillow and laid the adult female doll beside the male doll. I asked Katie who the female doll was and Katie stated, "This will be Shirley." I pointed to the male doll and asked who that was and Katie stated, "This is Ray." Katie then stated, "Moms and dads should sleep together, shouldn't they?" Katie then placed a small toy doll she had brought with her on the second pillow and stated, "This is me." I asked Katie, "What do you have on?" and Katie stated, "My jammies." I asked her what the adult male and female dolls were wearing and Katie stated, "They don't wear jammies, they just wear robes." I pointed to the pillow where Katie had placed the small toy doll and asked Katie, "What is this?" Katie stated, "That's my bed." I asked her where her bed was and Katie said, "It's in the other room, and this is my step-mom and dad's room." Katie then picked up the toy doll and replaced it with the anatomically correct child doll and stated, "This will be me and this will be Little Matt." Katie placed the toy doll beside the child female doll, indicating that the toy doll was



going to be Little Matt. I asked Katie where Big Matt slept and Katie stated, "We'll have to pretend because Big Matt sleeps on the high bed and Little Matt sleeps with me."

I asked Katie if she could tell me about what happened with Shirley and Katie stated, "We need a living room." Katie then jumped off the bed and brought a plastic sack back to the bed, indicating that that would be the living room. Katie then picked up the two female dolls, the adult and child dolls, and stated, "These two dolls are going to be us girls." I asked her which girls, and Katie stated, "Me and my mom, Shirley." I asked her what the girls were doing and Katie stated, "They're in the living room when it happened." Katie then picked up the adult male doll and the toy doll and placed them off to the side, stating, "This will be Little Matt and this will be Big Matt because my dad's at work." I asked Katie if she could tell me what happened then and at that time I observed Katie put her face down in the pillow again and she stated, still with her face in the pillow, "Shirley got touched." I asked Katie who touched Shirley and still with her face in the pillow, Katie stated, "He." I asked Katie what Shirley had on and Katie stated, "Shirley had on a robe." I asked Katie if she could show me with the dolls what happened with Shirley and advised her that it was okay and reminded her that we were alone and talking privately. Katie lifted her head off of the pillow and at that time she placed the hand of the child female doll on the breast area of the adult doll and made a rubbing motion. Katie's face was flushed again and she put her head back on the pillow. I talked to her for a moment again, indicating that it was okay and stated to Katie, "Did Shirley have on her robe?" Katie stated, "Yes, she did but I touched her on the skin." I stated, "On the skin?" and Katie replied, "Yah, like on that pink part where the strawberry stuff is."

I asked Katie, "Did anything else get touched?" and in a whisper Katie stated to me, "The pee-pee got touched, too." I asked her if she could show me with the dolls and at that time she placed the hand of the female child doll on the genital area of the adult female doll and made a rubbing motion with the hand. I asked Katie if Shirley said anything when that happened and Katie put her face back in the pillow and made a statement that I could not understand. I indicated to her that I couldn't understand and asked

her if she could tell me what Shirley said. Katie lifted her face off the pillow and was covering her eyes with her hand and stated, "She didn't like that."

I asked Katie if she and Shirley talked about anything else and Katie stated, "No." I indicated to Katie at that time that I thought Shirley had mentioned something about she and Katie talking at the beach. Katie stated, "Oh, yahr, we did. The boys were looking for feathers in the sand and me and my step-mother talked." I asked her where her daddy was and Katie stated, "Daddy was at work." I asked her who was at the beach and Katie stated, "Little Matt, me and my step-mom and Big Matt." I asked her if she could tell me what she and Shirley talked about.

At that time Katie turned over facing the window with her back to me and laid for several minutes without saying anything. I told Katie that sometimes it was hard to remember things and told her that I would give her time to think about it. After approximately three or four minutes I asked Katie if she was able to talk to me, and still with her back to me Katie stated, "Shirley and I talked about a secret." I asked her why it was a secret and she stated, "Cause my daddy told me not to tell anyone." I asked her if she could tell me about the secret and again Katie laid for several minutes with her back to me not saying anything. When I finally asked her if she remembered, Katie stated, "It was a secret about my daddy's wiener." I asked Katie if she could tell me about that and again Katie laid for several minutes without saying anything. When I asked her if she could tell me now, Katie stated, "My dad's wiener was sticking up." I asked her where he was when that happened and Katie laid for several seconds without saying anything, still with her back to me, and she then stated, "At the house by the river."

I asked Katie how old she was when her "daddy's wiener was sticking up" and at that time Katie raised her hand and held up five fingers, stating, "Five." I asked Katie if she could tell me more about that and Katie shook her head no. I asked her if she would like to think about that for awhile and she did not respond. I let Katie lay there for several minutes with her back to me and then I indicated to her that maybe it would be easier for her to show me with the dolls.

Katie laid very quietly for several minutes and then raised up and picked up the child female doll in her hand and I asked her who that doll was. Katie stated, "This is me." I stated to Katie, "Then what happened?" Katie hit the male doll with the child female doll and stated to me, "Put him over here." I picked up the male doll and stated, "Do I put his face down on the pillow?" and Katie stated, "No, put him on his back." At that time Katie placed the child female doll on top of the male doll, so they were facing each other, and in doing so she was careful to line up the genital area of the female doll against the penis of the male doll. I pointed to the male doll and asked Katie, "Who is this?" and Katie replied, "That's my daddy and that's the secret." Katie then buried her face in the pillow again and I tried for several seconds to get her to talk, but she would not respond in any way. Finally, I stated to Katie, "Is that what happened?" and Katie stated, "Yes, and that's bad."

I told Katie again that it was okay to tell and asked her if she remembered if she had told anyone and Katie stated, "I told my step-mom, Shirley, cause she had to know." I asked Katie if she knew why that happened and Katie stated, "Cause my daddy was being bad."

At that time I indicated to Katie that sometimes people did things that were not good to do because they were bad, but sometimes people did things they weren't supposed to do because they were sick and needed help. I indicated to Katie when a grownup person touches a child's body in a way that they shouldn't, it was probably because the grownup person was sick and needed help. I indicated to her that it was a different kind of sick than like when we got stomach aches or had the flu. It was like the grownup's person's thinking was sick. I indicated to Katie that when a grownup person touched a child where they weren't supposed to be touched it was wrong, and that the only way we could make sure that it didn't happen again was to get the big person some help. Katie stated, "My daddy's thinking is sick." I told Katie that that was why it was important for us to talk. In order for us to help somebody who was sick we needed to know what was wrong. Katie stated, "I don't want to talk about it." When Katie made that statement she appeared to be getting angry. I advised Katie that I did not want to upset her and I was sorry that I needed to talk to her but that it was just very important for us to know if something had